IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

OP.No. 18769 of 1998(H)

PETITIONER:

M/S.RUBBER COATS(IDNIA) PVT. LTD.,
INDUSTRIAL ESTATE, OLLUR,
THRISSUR DIST., REP. BY T.V.RAPPAI,
PRODUCTION DIRECTOR.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON

RESPONDENTS:
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1. COMMERCIAL TAXES OFFICER,
FOURTH CIRCLE, THRISSUR.

2. SPECIAL DEPUTY TAHSILDAR
(AGRL. INCOME-TAX & SALES TAX COLLECTIONS),
THRISSUR.

BY G.P. SRI.K.P.PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.33125/1998 IN OP NO.18769/1998

DISMISSED:

14.11.1997 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF ANNUAL RETURN IN FORM 9 FILED BY PETITIONER BEFORE R1 DT.28.4.98.

P2: COPY OF MONTHLY RETURN FOR APRIL 1998 FILED BY PETITIONER BEFORE R1 DT.8.5.98.

P3: .DO. MAY '98 .DO. DT.8.6.98.

P4: .DO. JUNE '98 .DO. 8.7.98.

P5: .DO. JULY '98 .DO. 18.8.98.

P6: COPY OF NOTICE ISSUED BY R1 TO THE PETITIONER DT.25.8.98.

P7: COPY OF DEMAND NOTICE IN FORM 14D FOR 1997-98 ISSUED BY R1 TO PETITIONER DT.26.8.98.

P8: COPY OF DEMAND NOTICE IN FORM 14D FOR APRIL TO JULY '98 ISSUED BY R1 TO PETITIONER DT.26.8.98.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.18769 of 1998

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Dated this the 14th day of November, 2007.

JUDGMENT

Dispute raised in the O.P. is with regard to rate of tax on the product sold by the petitioner namely, rubber lining material. Demand is seen raised in Form 14Dunder Rule 21(10) of the KGST Rules. The petitioner has returned the turnover at 6% and the tax demanded through Form 14D is 10%. Demand is raised for the assessment year 1997-98 and for part of 1998-99. I do not think the officer is justified in demanding tax at higher rate when the petitioner has raised a dispute on the same. When there is a dispute on rate of tax, there should be provisional or regular assessment based on which higher rate of tax can be demanded. The O.P. is therefore disposed of directing the first respondent to issue notice, hear the petitioner and complete regular assessment for all the years and demand tax based on such assessments.

C.N.RAMACHANDRAN NAIR
Judge

pms